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United States General Accounting Office
Washington, DC 20548

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February 22, 2001

The Honorable Chuck Grassley
Chairman
The Honorable Max Baucus
Ranking Member
Committee on Finance
United States Senate

The Honorable Bill Thomas
Chairman
The Honorable Charles Rangel
Ranking Minority Member
Committee on Ways and Means
House of Representatives

Subject: Department of Health and Human Services, Health Care Financing
Administration: Medicare Program; Inpatient Hospital Deductible and
Hospital and Extended Care Services Coinsurance Amounts for 2001

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Health and Human Services, Health Care Financing Administration (HCFA), entitled "Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 2001" (RIN: 0938-AK27). We received the notice on February 13, 2001. It was published in the Federal Register as a notice on October 19, 2000. 65 Fed. Reg. 62725.

The notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year 2001 under Medicare's hospital insurance program (Medicare Part A). The Medicare statute specifies the formula used to determine these amounts.

The inpatient hospital deductible will be \$792. The daily coinsurance amounts will be: (a) \$198 for the 61st through the 90th day of hospitalization in a benefit period; (b) \$396 for lifetime reserve days; and (c) \$99 for the 21st through 100th day of extended care services in a skilled nursing facility in a benefit period.

Enclosed is our assessment of the HCFA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule.

Many of the various statutes and executive orders that normally apply to the issuance of a final rule were found by HCFA to be inapplicable because the notice merely announces amounts required by statute. Our review indicates that HCFA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Bill Scanlon, Managing Director, Health Care. Mr. Scanlon can be reached at (202) 512-7114.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Ms. Catherine P. Beck
Deputy Executive Secretary to the Department
Department of Health and Human Services

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
HEALTH CARE FINANCING ADMINISTRATION
ENTITLED
"MEDICARE PROGRAM; INPATIENT HOSPITAL DEDUCTIBLE
AND HOSPITAL AND EXTENDED CARE SERVICES
COINSURANCE AMOUNTS FOR 2001"
(RIN: 0938-AK27)

(i) Cost-benefit analysis

While a cost-benefit analysis was not conducted because the increases were statutorily directed, the cost to beneficiaries is discussed in the notice. Due to the increase in the deductible and coinsurance amounts and the change in the number of deductibles and daily coinsurance amounts paid, HCFA estimates that the total increase in cost to beneficiaries will be \$480 million.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

HCFA has reviewed the notice and has found that no analyses under the Act are required. Since states and individuals are not considered small entities, there will be no significant impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The notice will not impose either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

In accordance with HCFA's past practice regarding publication of deductible and coinsurance amounts under Medicare where such amounts are determined according to the statute, general notice rather than notice and comment rulemaking procedures contained in section 553 of the Administrative Procedure Act are used. HCFA states that it found good cause to waive prior notice and solicitation of public comments because, as noted, the amounts and time period for which the deductibles and coinsurance amounts will apply were statutorily directed.

Likewise, since there was no notice and public comment, the exception contained at 5 U.S.C. 808(2) regarding the need for a 60-day delay in the effective date of a major rule is properly invoked and the rule may become effective when HCFA determines.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule does not contain any information collections that are required to be reviewed by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The notice was issued under the authority of section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e-2(b)(2)).

Executive Order No. 12866

The notice was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action.